IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 370 OF 1993

AND

WRIT PETITION NO. 373 OF 1993

Dattakumar Shivram Bansode ..Petitioner

V/S

Dapoli Education Society & Ors. ..Respondents

Mr. Dilip Bodake for petitioner.

None present for Respondents.

Mr. Dilip Bodake for petitioner.

Mrs. Anjali Helekar with Mr. V.P. Navare for Respondent Nos. 3 and 4.

CORAM : A.P. DESHPANDE, J.

DATE : 15TH JANUARY, 2007.

P.C.

1. The petitioner in both the petitions is the same person who has challenged the judgement and order passed by the School Tribunal allowing the Appeal preferred by the Respondent No. 3 in the 1st petition, whereas the Respondent No. 3 and 4 in the 2nd petition. The petitioner belong to S.C. category of the backward class. The Management passed a resolution taking a decision to grant promotion to the petitoner to the post of Asstt. Head Master and consequently appointing petitioner to the post of Asstt. Head Master with effect from

6-6-1988 so also the resolution passed by the School Management dated 25-6-1991 appointing petitioner to the post of Head Master with effect from 26-6-1991. The Respondents herein (Appellant before the Tribunal) placing reliance on the Judgment contended that as the post in question are isolated post the same cannot be subjected to reservation even by applying roster. It is not seriously disputed before the Tribunal that the Management was administering an aided secondary school imparting education upto 10th standard and in the said school there was only one post of Head Master and one post of Asstt. Head Master. As it was established before the Tribunal the post of Head Master and Asstt. Head Master are isolated post, the Tribunal allowing the Appeal quashed the resolution passed by the Management, so also the promotion granted to the present petitioner on the ground that the said promotion was granted in supersession of the claim of the Respondents herein as it is isolated post the same could not have been subjected to reservation.

2. Learned counsel for the petitioner has tried to contend that there were other unaided schools imparting education upto 7th standard administered by the Management. That appears to be admitted position before the Tribunal. The fact remains

that the school in question wherein the petitioner was promoted is the only aided secondary school

administered by the Management. The post of Head Master and Asstt. Head Master in the concerned school cannot be clubbed with the post of Head Master or Asstt. Head Master if available in the unaided school imparting education upto 2nd standard. There is no material placed on record to indicate that there were more than one post of Head Master and Asstt. Head Master available. Hence the finding recorded by the Tribunal that the post of Head Master and Asstt. Head Master in the concerned school cannot be termed as unsustainable. The said finding of fact, if taken to be correct which I am inclined, it is obvious that the isolated post cannot be subjected to reservation and hence the Tribunal has rightly held that the promotion granted to the petitioner as S.C. category candidate in a isolated post of Head Master was unsustainable in law. I do not find any merit in the petition and the same is dismissed.

3. The learned counsel for the petitioner submits that after the order passed by the Tribunal and after vacating the interim relief that was granted earlier to Respondent No. 3 in the 1st petition and Respondent Nos. 3 and 4 in the 2nd petition they came to be promoted as Head Master and Asstt.

Head Master and have also retired from the service. If it is so, there remains nothing in the petition

to be adjudicated. In the result, both the petitions fail and dismissed. Rule is discharged.

(A.P. DESHPANDE, J)